

U.S. DISTRICT COURT
NORTHERN DIST. OF TX
FILED

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2017 JUN -2 PM 4:58
**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

DEPUTY CLERK

ZACHARIAH C. MANNING,
on behalf of the
UNITED STATES OF AMERICA,

PLAINTIFF, Relator,

v.

**DALLAS INDEPENDENT
SCHOOL DISTRICT,**

DEFENDANT.

SEALED

317 - CV 1463 - C

CIVIL ACTION NO.: _____

FILED UNDER SEAL

31 U.S.C. §§ 3729-32

JURY TRIAL DEMANDED

FALSE CLAIMS ACT COMPLAINT ("QUI TAM")

TO THE HONORABLE JUDGE OF SAID COURT:

The United States of America, by and through qui tam Relator, Zachariah C. Manning¹, brings this action under 31 U.S.C. §§ 3729-32 (the "False Claims Act") to recover from Dallas Independent School District (hereinafter, "DISD") for all damages, penalties, and other remedies available under the False Claims Act on behalf of the United States and himself and for said Complaint will show the Court the following:

PARTIES

1. Relator, Zachariah C. Manning ("Manning") is an individual and resident citizen of the United States of America and resides in Dallas County, Texas.

¹ Hereinafter, "Plaintiff" or "Manning".

2. Defendant DISD is a Dallas County based school district located at the address where it may be served with Citation, 3700 Ross Avenue, Dallas, Texas 75204.

JURISDICTION & VENUE

3. This Court maintains subject matter jurisdiction over this action pursuant to 31 U.S.C. §3732(a) (False Claims Act) and 28 U.S.C. § 1331 (Federal Question).
4. Venue is proper in this Court under 31 U.S.C. § 3732(a) because DISD operates a school district in the County in which the Northern District of Texas, Dallas Division, is located.
5. Manning is the original source of and has direct and independent knowledge of all publicly disclosed information that the allegations stated in are based upon. Manning personally gathered all the documentation in his possession substantiating his allegations stated in this Complaint. Additionally, he has voluntarily provided all such information to the Government prior to the filing of this action.

BACKGROUND FACTS

6. DISD operates a school district in the State of Texas, Dallas County.
7. As part of its operations, DISD contracts with vendors to build and maintain properties on which it operates schools in Dallas County, Texas.
8. Federal law legally obligates DISD to engage in and allow for a fair and open competitive bidding process for construction projects involving its properties for which it receives and accepts federal dollars. See e.g., 47 C.F.R. § 54.503.

9. To ensure compliance with Federal law, DISD requires its Board of Trustees to approve purchase orders that exceed \$500,000.
10. Manning became aware of and secured evidence while he was working for DISD as a Project Manager which evidences managers to whom he directly reported, Sylvia Pena and Willie Burroughs, intentionally engaged in “sequential purchases” to avoid or circumvent Federal laws obligating DISD to engage in and allow for a fair and open competitive bidding process for its construction and maintenance projects for which it receives and accepts Federal dollars.
11. Circumvention of the bidding process effectively eliminated and illegally avoided the rights of women, minority and other contractors to bid on Federal projects.
12. “Sequential purchases” means purchases, made over a period, of items that in normal legal purchasing practices would amount to one purchase.
13. Mr. Manning is personally aware of his direct supervisors while he worked for DISD, Willie Burroughs and Sylvia Pena, submitting multiple sequential purchase requests to DISD’s Procurement Department in efforts to avoid or circumvent Federal laws obligating DISD to engage in and allow a fair and open competitive bidding process.
14. For example, Pena and Burroughs transmitted sequential purchasing requests to DISD’s Procurement Department Senior Buyer, Robbie Daniels.
15. By further example, Relator Manning is in possession of a true and correct copy of a spreadsheet reflecting Purchase Order submissions by a Vendor

known as Skye Building Services LLC totaling more than \$500,000 for a single project.

16. By further example, Relator Manning is in possession of a true and correct copy of a document showing projects divided among job order contractors in a manner and with intentions of and by Pena and Borroughs to circumvent Federal laws obligating DISD to engage in and allow a fair and open competitive bidding process.
17. Mr. Manning brought the sequential bidding practice issues to the attention of DISD's Procurement Department, to Sylvia Pena and Willie Burroughs and to the Texas Education Administration by complaint dated August 4, 2016.

CAUSE OF ACTION


18. Manning expressly incorporates the paragraphs above and below as if specifically incorporated into his Cause of Action.
19. Based on the acts Manning described in the Background Fact section above, Defendant DISD knowingly violated one or more of the following, individually or in combination:
 - a. Knowingly presented, or caused to be presented, a false or fraudulent claim for payment or approval;
 - b. Knowingly made, use or caused to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government.
20. The United States, unaware of the falsity of these claims, records and statements made by the Defendant DISD, and in reliance on the accuracy of

same, paid money to Defendant and/or various construction vendors for the fraudulent claims. These payments were mostly likely made to DISD under Federal Government programs which provide aid to school districts like DISD. The United States and the general public sustained damage as a result of Defendant DISD's violations of the False Claims act.

PRAYER

21. For the reasons set forth above, Manning, on behalf of the United States, respectfully requests this Court to find that Defendant DISD has damaged the United States Government as a result of its conduct under the False Claims Act. Harman prays that judgment enter against Defendant for all applicable damages, including but not limited to the following:
 - a. Actual damages in an amount sufficient to reimburse the United States the overage it paid because DISD failed to allow for a fair and open competitive bidding process for construction projects involving its properties for which it receives and accepts federal dollars.
 - b. Civil Penalties in an amount of three times the actual damages suffered by the Government.
 - c. Relator seeks a fair and reasonable amount of any award for his contribution to the Government's investigation and recovery pursuant to 31 U.S.C. §§ 3730(b) and (d) of the False Claims Act.
 - d. Attorney's fees and costs awarded to Relator.
 - e. Pre-judgment and post judgment interest.
 - f. All other relief on behalf of the Relator and/or United States Government to which they may be entitled at law or equity.

Respectfully submitted,



E. Lynette Stone
(Tx. Bar No. 24057683)

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Relator's Attorneys

PROOF OF SERVICE

I, E. Lynette Stone, certify that a true and correct copy of the foregoing has been served 6/2/2017 via CM/RRR on:

Hon. Jeff Sessions
Attorney General of the United States
U.S. Dept. of Justice
950 Pennsylvania Avenue
NW Washington, DC 20530-0001

/s/ E. Lynette Stone
Attorneys for Relator